

part "Here NOW! Real Coffee Base Caffeine Activated Vitamin 'A' Fortified Kean's Pep-Ups Brand Chicles, Only Chewing Gum of its Kind in the World"; form letter headed "Kean Energizing Health Products"; and display box inserts reading in part "New! \* \* \* Pep-Ups\* Awakeners— 'Drive Safers' Alerters."

**RESULTS OF INVESTIGATION:** The article was in bulk form and was, in the normal course of the dealer's business operations, to be repacked into clear plastic 15-unit rectangular boxes containing insert labels.

The label on the bulk material stated that the article contained " $\frac{1}{2}$  gr. anhydrous Caffeine per tablet" which was about  $\frac{1}{6}$  of the caffeine content of a cup of coffee.

**LIBELED:** 9-18-61, S. Dist, N.Y.

**CHARGE:** 502(a)—while held for sale, the labeling of the article contained false and misleading representations that the article was capable of making one energetic; awakening, and promoting alertness and safer driving; aiding or resisting "eyesight fatigue" resulting from exposure to sun, daylight, headlight glare, and artificial lighting; having a sobering and counteractive effect in mild hangover condition; overcoming car sickness; and that the article was the only chewing gum of its kind in the world; that it contained a significant amount of caffeine which was "activated," "activating," and "fortified"; and 502(f) (1)—the labeling of the article failed to bear adequate directions for use for the conditions and purposes for which it was offered.

**DISPOSITION:** 11-8-61. Consent—claimed by the dealer and destroyed.

**6707. Various prescription drugs.** (F.D.C. No. 46438. S. Nos. 3-181/8 T.)

**QUANTITY:** Various quantities, having an approximate total value of \$1,000, at Baltimore, Md., in possession of Golditch Pharmacy.

**SHIPPED:** On unknown dates, by various drug handlers.

**LABEL IN PART:** (Some labels) "Professional Sample Not To Be Sold," "Physician Sample," "Complimentary Package," "Sample Not For Sale," and "Physician Sample Not To Be Sold," or similar wording.

**RESULTS OF INVESTIGATION:** Some of the articles were prescription drugs which had been repacked by the dealer from physicians' samples into bottles to which had been affixed labels bearing the brand names of the drugs, the words "Professional Sample Not To Be Sold," "Complimentary Package," "Sample Not For Sale," or similar wording, and the names and addresses of the manufacturers, packers, or distributors located outside the State of Maryland.

Some of the articles were prescription drugs originally intended for use as samples for physicians and others lawfully engaged in dispensing prescription drugs, which had not, at the time the articles were libeled, been repacked by the dealer and which bore labels similar to the above articles.

Some of the articles were prescription drugs repacked as above from physicians' samples into bottles bearing labels which contained the words "Physician Sample" or similar wording and such brand names for the drugs as are indicative of their manufacture outside the State of Maryland, but did not bear the names and addresses of the manufacturers, packers, or distributors located outside the State of Maryland.

Some of the articles were prescription drugs which had been repacked by the dealer into bottles to which had been affixed labels bearing such brand names for the drugs as were indicative of their manufacture outside the State of Maryland, but which did not contain the names and addresses of the manu-

facturers, packers, or distributors, and original identifying lot or control numbers.

**LIBELED:** 9-5-61, Dist. Md.

**CHARGE:** 502(a)—while held for sale, the words "Professional Sample Not To Be Sold," "Physician Sample," "Complimentary Package," "Sample Not For Sale," "Physician Sample Not To Be Sold," and similar wording on the labels of a number of the articles, were false and misleading as applied to the articles then in possession of a repacker and intended for sale, and not then intended for use as "complimentary-not for sale" samples for physicians and others lawfully engaged in dispensing prescription drugs; 502(b) (1)—a number of the articles failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor; and 502(f) (1)—the labels of a number of the articles failed to bear adequate directions for use and they were not exempt from that requirement since they were drugs subject to the provisions of 503(b) (1) and their labels failed to bear an identifying lot or control number from which it was possible to determine the complete manufacturing history of the packages of the drugs as required by regulations.

**DISPOSITION:** 10-3-61. Default—destruction.

**6708. Neo-Cough cough syrup.** (F.D.C. No. 45954. S. No. 79-514 R.)

**QUANTITY:** 37 cases, each containing 36 3-oz. btls., at Arlington, Va.

**SHIPPED:** 10-27-59 and 1-3-61, from Philadelphia, Pa., by Hance Bros. & White.

**LABEL IN PART:** (Btl.) "Neo-Cough Cough Syrup For Children \* \* \* Distributors Arlco Drug Co. \* \* \* Each Fluid ounce Contains: \* \* \* d-Methorphan H. Br. 15 mg. \* \* \* Phenylephrine HCl. 15 mg. \* \* \* Directions: Infants, from 3 months to 1 year, 10 to 15 drops."

**LIBELED:** 6-19-61, E. Dist. Va.

**CHARGE:** 502(f) (2)—when shipped, the labeling failed to bear adequate warnings against its use by individuals with high blood pressure, heart disease, diabetes, or thyroid disease; to keep it out of the reach of children; against its administration to children under 2 years of age; against its use by persons with a high fever or persistent cough; and that a persistent cough may indicate the presence of a serious condition.

The libel alleged also that other articles were adulterated under the provisions of the Act relating to foods, as reported in notices of judgment on foods.

**DISPOSITION:** 7-6-61. Consent—claimed by Arlco Drug Co., Arlington, Va., and relabeled.

**6709. Adolphus Massagerizer and Wahl Powersage Electric Vibrator.** (F.D.C. No. 46078. S. Nos. 84-595/6 R.)

**QUANTITY:** 11 Massagerizer devices and 11 vibrator devices at New York, N.Y., in possession of Adolphus Hohensee.

**SHIPPED:** Prior to 6-28-61, from outside the State of New York.

**RESULTS OF INVESTIGATION:** Examination showed that the Massagerizer was a vibrating pillow-like box having 2 metal ends, the other 4 sides being padded and covered with a pink rubberized material; and that one end had an adjustable knob-switch to turn the device on and adjust its speed of vibration.

Examination showed that the Powersage Vibrator was an electric hand massager, having 2 elastic metal bands that attached the device to the back of the hand thus leaving the palm free to massage where desired.